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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/034,536

12/27/2001

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03/09/2005

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EXAMINER

TRAIL, ALLYSON NEEL

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,536

Applicant(s)

BLANFORD ET AL.

Examiner

Allyson N. Trail

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/10/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the Amendment filed December 10, 2004.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1, 2, 6, 8, 9, 12, 14, 15, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider (5,115,888).

Schneider teaches the following in regards to claim 1:

Allowing placement of items to be weighed on a scale 23, of the retail terminal (figure 1). Allowing scanning of one item of the items via a scanner 114, of the retail terminal. Obtaining a first weight measurement (at packing scale 23) of the items on the scale upon successful scanning of the one item; and obtaining a second weight measurement (at bagging scale) upon actuation of a trigger.

Schneider teaches the following in regards to claims 2, 9, and 15:

The second weight of the items is measured when the bag is filled and the bag is moved from the packing scale to the bagging scale. The bagging scale weighs the items once place thereon. (Col. 12, lines 18-27)

Schneider teaches the following in regards to claims 6, 12, and 18:

"The computer will make sure that the weight increase of the bagging scale 29 is equal exactly to the weight of bag 21 measured by the packing scale 23." If there is no discrepancy between the second and first weight, it is indicated to be a successfully obtained. (Col. 12, lines 24-27).

Schneider teaches the following in regards to claim 8:

See Schneider's teachings in regards to claim 1. Additionally, Schneider teaches the retail terminal including a processor 554 and a memory 552, which contains program steps that CPU 554 follows. (Col. 21, lines 60-64).

Schneider also teaches reading machine-readable data, such as a barcode.

Schneider teaches the following in regards to claim 14:

See Schneider's teachings in regards to claims 1 and 8. Additionally, Schneider teaches the scale being in communication with the processor. "The computer will make sure that the weight increase of the bagging scale 29 is equal exactly to the weight of bag 21 measured by the packing scale 23." If there is no discrepancy between the second and first weight, it is indicated to be a successfully obtained. (Col. 12, lines 24-27).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-5, 7, 10, 11, 13, 16, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider (5,115,888) in view of Ruppert et al (5,640,002).

Schneider's teachings are discussed above. Schneider additionally teaches (in regards to claim 4) a key for locking the terminal and using a key. (Col. 13, lines 59-68). Schneider fails to teach the actuation of a trigger comprising user-actuation of an actuator. Schneider also fails to teach a timer having a time duration, and lastly fails to teach providing an audio indication of the successful obtaining of a weight measurement.

Ruppert et al teaches the following in regards to claims 3, 10, and 16:

"The user then loads the products from his cart into a bag or other container 545 and loads the bag on an electronic scale 547 at the checkout station. The user also enters his user ID number on a keyboard (not shown) at the checkout station 549 and presses a button to cause the scale to weigh the bag and another button to tell the scale when the last bag has been weighed." (Col. 38, lines 5-11).

Ruppert et al teaches the following in regards to claims 5, 11, and 17:

"If the user does not press the scan button for a predetermined time of, for example 30 seconds, the microprocessor displays a query as to whether the user is done shopping as symbolized by block 87." (Col. 10, lines 56-59).

Ruppert et al teaches the following in regards to claims 7, 13, and 19:

"When a bar code has been successfully scanned, a beep tone is emitted from a piezoelectric sounding device 89 in FIG. 3." (Col. 11, lines 3-5). Ruppert et al's audio

indications of successful scanning could easily be used for the indication of a successful weight measurement.

In view of Ruppert et al's teachings it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ruppert et al's method of having the user press a button to cause the scale to weigh the bag. Schneider teaches weighing a bag as the bag is placed on the scale. One would be motivated to have the user initiate the weighing of the bag to ensure that the bag is placed in the middle of the scale and correct weight is measured. Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the timer taught by Ruppert et al along with the self-checkout system taught by Schneider. The timer acts as a backup. If the actuator is not triggered and does not weigh the bag, the timer will trigger the scale to take a measurement. Lastly, one would be motivated to include an audio indication of a successful weight measurement in order for the customer to know that the bag's weight has successfully been obtained. This will cut down on time and confusion of not knowing if the bag has been successfully read or not.

Response to Arguments

6. Applicant's arguments filed December 10, 2004 have been fully considered but they are not persuasive. Applicant argues that claims 1, 8, and 14 require the first and second weight measurements to be taken of one type of item and to be taken on one scale. The examiner respectfully disagrees. Neither claims 1, 8, nor 14 disclose that only one scale is used. Furthermore, neither of the independent claims include the limitation that the same type of item's weight is being measured twice. Although the

disclosure of the current application may include the above specific elements of the method of operating a retail terminal, these limitations are not disclosed in any of the currently amended claims.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Allyson N. Trail* whose telephone number is (571) 272-2406. The examiner can normally be reached between the hours of 7:30AM to 4:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571) 272-2398. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**allyson.trail@uspto.gov**].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Allyson N. Trail
Patent Examiner
Art Unit 2876
March 4, 2005

Jared J. Furman
JARED J. FURMAN
PRIMARY EXAMINER